

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

LEIGHTON TECHNOLOGIES LLC,

Plaintiff,

vs.

OBERTHUR CARD SYSTEMS, S.A. and
OBERTHUR CARD SYSTEMS OF
AMERICA CORPORATION,

Defendants.

OBERTHUR CARD SYSTEMS, S.A. and
OBERTHUR CARD SYSTEMS OF
AMERICA CORPORATION,

Counterclaim Plaintiffs,

vs.

LEIGHTON TECHNOLOGIES LLC,
GENERAL PATENT CORPORATION
INTERNATIONAL, GENERAL PATENT
CORPORATION, and IP HOLDINGS LLC,

Counterclaim Defendants.

04 Civ. 02496 (CM) (LMS)

**DECLARATION OF ROBERT A.
GUTKIN SUBMITTED IN SUPPORT
OF PLAINTIFF AND
COUNTERCLAIM DEFENDANT
LEIGHTON TECHNOLOGIES
LLC'S MOTION FOR LEAVE TO
FILE AMENDED ANSWER TO
COUNTERCLAIMS, AFFIRMATIVE
DEFENSES**

PUBLIC VERSION

Exhibits A, D-H Contain Confidential
Information Subject To The Protective
Order In This Case Entered on August 20,
2004

I, Robert A. Gutkin, under penalty of perjury, declare as follows:

I am a partner at Sutherland Asbill & Brennan LLP, and I represent Leighton Technologies LLC in this case. I submit this Declaration in Support of Plaintiff Leighton Technologies LLC's Motion for Leave to File Amended Answer to Counterclaims, Affirmative Defenses.

1. Attached is Oberthur's December 18, 2007 letter to the Court in which Oberthur stated in writing that Messrs. Jean-Marc Delbecq and Noel Eberhardt, two former employees of

Motorola, Inc., invented the subject matter claimed in U.S. Patent Nos. 6,214,155 and 5,817,207 (“the patents-in-suit”). A true and correct copy of the December 18, 2007 letter to the Court from Edward DeFranco is attached hereto as Exhibit A. **[This exhibit is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.]**

2. On February 15, 2008, Oberthur produced over 3,000 pages of documents to Leighton. A true and correct copy of a letter from Elizabeth Albes to Mary Viguie that accompanied the document production is attached hereto as Exhibit B. Among these documents are the purported laboratory notebooks of Mr. Noel Eberhardt.

3. Subsequent to Oberthur's February 15, 2008 document production, the parties have worked together over the course of several weeks to narrow down the list of these documents that the parties intend to use at the upcoming inventorship trial currently scheduled to begin on July 7, 2008. Oberthur has provided a refined list of the documents it intends to use at trial. Leighton is in the process of preparing a similar list.

4. On April 28, 2005, Leighton served its second set of interrogatories on Oberthur, which included Interrogatory No. 11 – an interrogatory seeking a description of all bases for Oberthur’s invalidity allegations. Oberthur objected to the interrogatory and refused to respond to the interrogatory. A true and correct copy of Oberthur’s response to Leighton’s Second Set of Interrogatories is attached hereto as Exhibit C.

5. A true and correct copy of the relevant pages, p. 137, ln. 19-p. 142, ln. 24, of the May 4, 2006 Deposition of Mr. Kenneth Thompson are attached hereto as Exhibit D. **[This exhibit is being filed under seal because it contains information designated by HID Global**

Corporation as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.]

6. A true and correct copy of the relevant pages, p. 161, ln. 7-p.163, ln. 4, of the May 4, 2006 Deposition of Mr. Kenneth Thompson are attached hereto as Exhibit E. **[This exhibit is being filed under seal because it contains information designated by HID Global Corporation as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.]**

7. A true and correct copy of the relevant pages, p. 250, ln. 8, of the March 22, 2006 Deposition of Mr. Jean-Marc Delbecq are attached hereto as Exhibit F. **[This exhibit is being filed under seal because it contains information designated by HID Global Corporation as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.]**

8. True and correct copies of Mr. Keith Leighton’s Correspondence to Motorola are attached hereto as Exhibit G. **[This exhibit is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.]**

9. A true and correct copy

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is attached hereto as Exhibit H.

[This exhibit is being filed under seal because it contains information designated by Oberthur as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.]

10. On April 28, 2005, Leighton served its third set of requests for production of documents and things on Oberthur. Document request numbers 46-51 request documents that relate to Oberthur's allegations of invalidity. Oberthur responded stating it would produce all non-privileged documents in its possession. The Motorola lab notebooks, which are within the scope of these document requests, were produced by Oberthur on February 15, 2008. A true and correct copy of the relevant pages of Oberthur's responses to Leighton's Document Request Numbers 46-51 are attached hereto as Exhibit I.

I declare under penalty and perjury under the laws of the United States that the foregoing is true and correct.

Dated: March 27, 2008

/s/Robert A. Gutkin
Robert A. Gutkin (Pro hac vice)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing DECLARATION OF ROBERT A. GUTKIN SUBMITTED IN SUPPORT OF PLAINTIFF LEIGHTON TECHNOLOGIES LLC'S MOTION FOR LEAVE TO FILE AMENDED ANSWER TO COUNTERCLAIMS, AFFIRMATIVE DEFENSES was served on the following on March 27, 2008 by e-mail and overnight mail:

Edward DeFranco
Kevin Johnson
Mark Baker
Quinn Emanuel Urquhart Oliver & Hedges, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010

/s/ Robert A. Gutkin